



News & Types: Client Advisories

COVID-19 Sent Many Employees Home to Work Remotely - Remember to Reimburse their Expenses

6/11/2020

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Practices: Employment, Labor & Benefits

EXECUTIVE SUMMARY

Illinois law requires employers to reimburse employees for work-related expenses, subject to certain restrictions. Due to the risks of liability employers face under Illinois law for unreimbursed work-related expenses, it is important for employers to have a written reimbursement policy in place and to reimburse employees for qualifying expenses in a timely manner. With large numbers of employees now working from home for an extended time, it is crucial for employers to contact their employees regularly and remind them to submit any qualifying expenses for reimbursement.

The unprecedented number of employees working from home due to COVID-19 has created a similarly unprecedented amount of work-related expenses incurred while working from home. Whether these expenses are for phone, internet, printer paper, toner, or more elaborate work-from-home setups such as computer monitors and desks, Illinois employers must reimburse employees for certain expenses under Illinois law.

On January 1, 2019, an amendment to the Illinois Wage Payment and Collection Act took effect that imposed new requirements for employers to reimburse their employees for work-related expenses. The amended statute (820 ILCS 115/9.5) provides that “[a]n employer shall reimburse an employee for all necessary expenditures or losses incurred by the employee within the employee's scope of employment and directly related to services performed for the employer.” The statute further defines "necessary expenditures" as “all reasonable expenditures or losses required of the employee in the discharge of employment duties and that inure to the primary benefit of the employer.” Under the statute, employees are required to submit an expense report with supporting documentation within 30 days of incurring the expense, unless the employer’s written reimbursement policy permits for a longer time. If the employee has lost the supporting documentation or if it is nonexistent, the employee may submit a signed statement regarding any such receipts.

Other important features of the amendment are that an employee is not entitled to reimbursement if: (i) the employer has a written reimbursement policy, and (ii) the employee failed to comply with the written reimbursement policy. Reimbursement is not required for losses due to the employee’s own negligence, losses

attributable to normal wear and tear, or losses from theft unless due to the employer's negligence. In addition, an employer is not liable under the amendment unless it authorized or required the employee to incur an expense, or if the employer failed to follow its own reimbursement policy. Finally, if the employer's written reimbursement policy establishes certain guidelines or specifications for necessary expenditures, the employer will not be liable for any amounts that exceed those guidelines or specifications, provided that the employer does not institute a policy that provides for no reimbursement or de minimis reimbursement.

Given the current potential for employees to incur a wider variety of work-related expenses while working from home over an extended period, it is now more important than ever for employers to check in with their employees regularly and remind them to submit any expenses for reimbursement. Employers should also take this opportunity to review their written reimbursement policies to ensure that they comply with Illinois law. If you have any questions about the Illinois Wage Payment and Collection Act amendment and how it affects your company's reimbursement policy, please contact your Masuda Funai relationship attorney for a consultation.